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REDACTED - FOR PUBLIC INSPECTION

December 11, 2018

VIA HAND DELIVERY

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street SW
Washington, D.C. 20554

**RE: Request for Confidential Treatment; CG Docket Nos. 10-51 & 03-123
Request for Expedited Limited Waiver of Section 64.604(b)(8)(iv)(A)**

Dear Ms. Dortch:

Pursuant to Sections 1.3 of the rules of the Federal Communications Commission (“Commission”), CSDVRS, LLC d/b/a ZVRS (“ZVRS”) and Purple Communications, Inc. (“Purple”) (collectively, the “Companies”, and each, individually, a “Company”), hereby submits a confidential version of its request for an expedited limited waiver of Section 64.604(b)(8)(iv)(A) of the Commission’s rules (“Request”), which requires each Communications Assistant (“CA”) handling calls through the At-Home Video Relay Service (“VRS”) Call Handling Pilot Program (the “Pilot Program”) to have at least three years of experience as a call center CA, the redacted version of which has been filed in the above captioned dockets.

Pursuant to Sections 0.457 and 0.459 of the Commission’s rules,¹ ZVRS requests that the Commission afford confidential treatment to the information that has been marked confidential in the attached Request and withhold that information from public inspection. The confidential information includes granular information about operations and business strategy of ZVRS, information that discusses in detail the amount of traffic handled, and granular information about costs and revenues. ZVRS also requests that the Commission withhold from public inspection the exhibits that are redacted in their entirety in the public version of the Request, as it would not be feasible to separate the confidential information from any non-confidential information contained therein. Such information falls within Exemption 4 of the Freedom of Information Act (“FOIA”).²

In support of this request and pursuant to Section 0.459(b) of the Commission’s rules, ZVRS hereby states as follows:

1. Identification of the specific information for which confidential treatment is sought.

ZVRS requests confidential treatment with respect to the confidential information redacted from the version filed electronically with the Commission.

¹ 47 C.F.R. §§ 0.457; 0.459.

² See 47 C.F.R. § 0.457(d).



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2. Identification of the circumstance giving rise to the submission.

The Companies are submitting this information with respect to a Request for expedited limited waiver of Section 64.604(b)(8)(iv)(A) of the Commission's rules.

3. Explanation of the degree to which the information is commercial or financial or contains a trade secret or is privileged.

The information in the attached Request is highly-sensitive commercial information granular information about the specific day-to-day operations and business strategy of the Companies. This information is generally safeguarded from competitors and is not made available to the public.

4. Explanation of the degree to which the information concerns a service that is subject to competition.

The confidential information involves Video Relay Service, a nationwide competitive service.

5. Explanation of how disclosure of the information could result in substantial competitive harm.

Disclosure of the information included in the Request could cause substantial competitive harm and would provide competitors insight into confidential operational, financial and strategy information, which would result in a severe competitive disadvantage.

6. Identification of any measures taken to prevent unauthorized disclosure.

ZVRS routinely treats the information provided in the Request as highly confidential and exercises significant care to ensure that such information is not disclosed to its competitors or the public.

7. Identification of whether the information is available to the public and the extent of any previous disclosure of the information to third parties.

ZVRS does not make the information provided in the attached Request available to the public, and this information has not been previously disclosed to third parties, except where required by the Commission and the TRS Fund administrator, each of whom protect the confidentiality of such submissions.



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8. Justification of the period during which the submitting party asserts that the material should not be available for public disclosure.

ZVRS requests that the information identified in the following Request be treated as confidential on an indefinite basis, as they cannot identify a date certain on which this information could be disclosed without causing competitive harm.

Respectfully submitted,

/s/ Gregory Hlibok

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Attachments

cc:

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**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Structure and Practices of the Video Relay Service)	CG Docket No. 10-51
Program)	
)	
Telecommunications Relay Services and Speech-)	
to-Speech Services for Individuals with Hearing)	CG Docket. 03-123
and Speech Disabilities)	

REQUEST FOR EXPEDITED LIMITED WAIVER

CSDVRS, LLC d/b/a ZVRS (“ZVRS”) and Purple Communications, Inc. (“Purple”) (collectively, the “Companies”, and each, individually, a “Company”), pursuant to Sections 1.3 of the rules of the Federal Communications Commission (“Commission”), hereby requests an expedited limited waiver of Section 64.604(b)(8)(iv)(A) of the Commission’s rules,¹ which requires each Communications Assistant (“CA”) handling calls through the At-Home Video Relay Service (“VRS”) Call Handling Pilot Program (the “Pilot Program”) to have at least three years of experience as a call center CA (the “Three-Year Requirement”).

I. BACKGROUND.

In the *VRS Improvements Report and Order*, the Commission established the Pilot Program, authorizing VRS providers to hire qualified CAs to handle VRS calls from at-home work stations, subject to specified safeguards, for a twelve-month period, beginning November 1, 2017, and ending October 31, 2018.² On October 31, 2018, the Commission extended the

¹ 47 C.F.R. § 64.604(b)(8)(iv)(A). (quote the regulation here)

² *Structure and Practices of the Video Relay Service Program; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket Nos. 10- 51, 03-123, Report and Order, Notice of Inquiry, Further Notice of Proposed Rulemaking, Order, FCC 17-26, paras. 48-50

termination date of the Pilot Program through April 30, 2019.³ In the 2017 VRS Improvements Report and Order, the Commission determined that, “there have been important advances in technology, including the strengthened reliability of Internet-based networks, the advent of video platforms that allow stricter monitoring of the at-home environment, and the secure use of video communications at home and in the workplace.”⁴ In their petition to permanently authorize at-home call handling, ZVRS and Purple explained that the “the Pilot Program demonstrates that at-home call handling furthers the Commission’s long-standing policy of fostering a functionally equivalent and efficient VRS program. The Community is receiving the same functionally equivalent service, regardless of whether the CA is working from a call center or an at-home work station. The at-home-specific safeguards required by the Commission are ensuring compliance with the VRS mandatory minimum standards, and requirements related to monitoring and oversight of CAs, confidentiality of VRS conversations, reliability, and quality of service, all while preventing fraud, waste, and abuse.”⁵

One requirement of the Pilot Program is having the unintended consequence of limiting the goals of the Pilot Program and the benefits of at-home interpreting. When authorizing the Pilot Program, the Commission recognized that “allowing VRS CAs to handle calls from at-home workstations offers several benefits, including increasing the pool of qualified interpreters.”⁶ However, imposing the Three-Year Requirement on interpreters is doing the

(2017) (“2017 VRS Improvements Report and Order”); *see generally* 47 CFR § 64.604(b)(8) (rules governing the at-home call handling pilot program).

³ *See Structure and Practices of the Video Relay Service Program; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket Nos. 10-51, 03-123, Order, DA 18-1119 (rel. Oct. 31, 2018).

⁴ 2017 VRS Improvements Order at paras. 48-50.

⁵ Petition for Rulemaking to Permanently Authorize At-Home Video Relay Service Call Handling by CSDVRS, LLC, d/b/a ZVRS and Purple Communications, CG Docket Nos. 03-123, 10-51, 6 (filed Aug. 29, 2018).

⁶ 2017 VRS Improvements Order at paras. 48-50.

opposite – it is artificially restricting the already short supply of qualified interpreters to those who have already worked in, and live in close proximity to, call centers for three years, discriminating against many qualified interpreters that could readily serve in the Pilot Program. This limitation comes at a critical time when our world is becoming more interconnected and

[REDACTED]

II. DISCUSSION

Accordingly, in this request, the Companies ask that the Commission waive application of the Three-Year Requirement found in Section 64.604(b)(8)(iv)(A). Generally, the Commission’s rules may be waived for good cause shown.⁷ The Commission may waive a rule where the particular facts make strict compliance with the rule inconsistent with the public interest.⁸ In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy in electing to waive one or more of its rules.⁹

Strict application of the Three-Year Requirement is inconsistent with the public interest because the rule artificially constrains an already limited pool of qualified interpreters to those that have worked in traditional call centers for a long time, and likely live in close proximity to those call centers. As the Commission knows, VRS call volumes outpace the pool of qualified interpreters that live near call centers – this is one of the reasons why the Pilot Program authorizing at-home interpreting is so important. The limited waiver requested herein would further the Commission’s goal of expanding the pool of qualified interpreters that can provide VRS service, advancing the functional equivalence of VRS. Waiver of the Three Year Requirement would permit the Companies to hire interpreters for the Pilot Program that are

⁷ 47 C.F.R. § 1.3.

⁸ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (“*Northeast Cellular*”).

⁹ *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969) (“*WAIT Radio*”); *Northeast Cellular*, 897 F.2d at 1166.

qualified in every other respect to provide VRS in accordance with the Commission’s mandatory minimum standards, even if they haven’t worked in, and lived near, a traditional VRS call center for the past three years.¹⁰

A. Strict Application of the Three-Year Requirement Frustrates Important Goals Underlying the Pilot Program.

VRS providers have long acknowledged that the pool of qualified interpreters is small.¹¹ The Companies have found that the pool of potential interpreters that can staff traditional call centers is typically geographically limited to the area within a reasonable commuting distance from a call center. Indeed, the Commission recognized in authorizing the Pilot Program that a key benefit of at-home call handling is the ability to hire high quality interpreters in different areas.¹² [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] The Three-Year Requirement, however, hampers the Companies’ efforts [REDACTED]

¹⁰ See 47 C.F.R. § 64.604(a)(iv) (requiring that providers employ only “qualified interpreters,” which the rule defines as an interpreter that is “able to interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary”).

¹¹ See, e.g., Sorenson Communications, Inc. Comments on VRS Compensation Rates, CG Docket Nos. 10-51, 03-123, at 3 (filed Dec. 9, 2015).

¹² See 2017 VRS Improvements Order at paras. 48-50 (finding that “allowing VRS CAs to handle calls from at-home workstations offers several benefits, including increasing the pool of qualified interpreters”).

¹³ [REDACTED]

[REDACTED] [REDACTED] by effectively restricting the pool of candidate CAs to those who have worked in, and therefore live in close proximity to, traditional call centers – the vast majority of whom are already employed in VRS call centers. Without the ability to hire *additional* interpreters, who are otherwise qualified to handle VRS calls under the Commission’s mandatory minimum standards, the Companies’ efforts to optimize speed of answer for their customers will be constrained, serving neither the public interest nor the Commission’s goals in authorizing the Pilot Program.

The waiver requested herein would better serve these aims by allowing the Companies to hire additional qualified CAs in response to variations in call volume, as the Commission intended in establishing the Pilot Program. [REDACTED] [REDACTED]

[REDACTED]

[REDACTED] [REDACTED] These interpreters are technically proficient, and otherwise qualified interpreters who are often working in the deaf community, but lack the experience of working in a call center merely because there are no nearby call centers to employ them. A limited waiver of the Three-Year Requirement would allow the Companies to evaluate and hire qualified candidate CAs throughout the country and thus maintain service quality and speed of answer for the benefit of VRS customers and the functional equivalence of the service.

B. Strict Application of the Three-Year Requirement Is Not Necessary to Achieve the Goals of the Pilot Program.

Strict application of the Three-Year Requirement is not necessary to ensure that CAs handling calls from at-home workstations during the Pilot Program are sufficiently capable of handling calls in the at-home environment. As an initial matter, and as described above, the Commission’s mandatory minimum standards for VRS already require that all CAs be

“qualified.”¹⁴ In addition, as the Companies have previously explained to the Commission, at-home CA workstations replicate the call center environment in all respects, save for the physical presence of a supervisor, which supervision is provided through a variety of means, including real-time chat, other communications channels, and the use of remote monitoring cameras. Supervisors are thus as readily available to monitor and assist at-home CAs with questions as supervisors are in traditional call centers. At-home CAs similarly reach customer care and technical support through exactly the same means as CAs in call centers.

In addition, the Companies have developed extensive training, already delivered to all CAs today, that will prepare these new-to-VRS interpreters to handle VRS calls. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Thus, excluding these otherwise qualified interpreters from VRS call handling based on the location of their residence does not further the objectives of creating a functionally equivalent VRS. The screening process for qualified interpreters at the Companies is, obviously, already rigorous enough.

In light of the above, it is clear that the Three-Year Requirement is not necessary to ensure that at-home CAs are able to effectively interpret from at-home workstations. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Newly hired at-

¹⁴ 47 C.F.R. § 64.604(a)(1)(i).

home CAs will go through the same rigorous screening process, complete the same extensive training, and begin working in an environment that replicates in all material respects the environment of CAs in traditional call centers. There is thus no need to subject at-home CAs to more stringent requirements than call center CAs, who may handle calls so long as they are qualified as defined under the Commission's mandatory minimum standards. The Commission should provide equal treatment and opportunity for all qualified interpreters, whether they want to work at-home or in a traditional VRS call center.

III. CONCLUSION

For the foregoing reasons, the Companies hereby request a waiver of the Three-Year Requirement found in Section 64.604(b)(8)(iv)(A) of the Commission's rules. Granting the relief requested herein will expand the pool of qualified VRS CAs as the Commission intended in establishing the Pilot Program.

Respectfully submitted,

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